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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/977,775
Filing Date: October 15, 2001
Appellant(s): MUELLER ET AL.

MAILED

SEP 19 2007

Group 3700

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For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on November 10, 2005 appealing from the Office action mailed March 25, 2005.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief was correct at the time the Appeal Brief was filed. However, pursuant to the examiner's withdrawal of grounds of rejection corresponding to claims 5 through 11, 14, 15, 19, and 20 as described in greater detail below, a corrected statement of the status of the claims is presented as follows:

This appeal involves claims 1 through 4 and 16 through 18.

Claims 5 through 15 and 19 through 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 27 through 46 have been canceled.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

WITHDRAWN REJECTIONS

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The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. Upon reconsideration in view of applicant's arguments and in view of the file wrapper history of the application as a whole, the examiner hereby withdraws the rejection of claims 19 and 20 as being anticipated by Clark et al. under 35 U.S.C. 102(e), the rejection of claims 5 through 11 and 14 as being unpatentable under 35 U.S.C. 103(a) over Clark et al., and the rejection of claim 15 as being unpatentable under 35 U.S.C. 103(a) over Clark et al. in view of Hirath et al.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,497,276

Clark et al.

12-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 through 4 and 16 through 18 are rejected under 35 U.S.C. 102(e) as being anticipated by *Clark et al. (of record)*.

Clark et al. discloses a combination cooling and cooking appliance 20 essentially as claimed, including, for example: a frame or housing comprising a cooking chamber 28 and a refrigeration module chamber or drawer 68, the cooking chamber 28 having a door 48 movably mounted to cover and uncover a first access opening corresponding to the oven or cooking chamber 28; a heat element or heating unit 50 disposed within the cooking chamber or oven 28 to selectively provide heat to the cooking chamber or oven 28; an inlet duct 80 extending between the refrigeration module or unit 70 and the cooking chamber or oven 28, the inlet duct 80 having an outlet 54 in communication with the cooking chamber or oven 28; a return duct 112 extending between the refrigeration module or unit 70 and the cooking chamber or oven 28, the return duct 112 having an inlet 56 in communication with the cooking chamber or oven 28; a refrigeration module or refrigeration unit 70 [see column 3, lines 58-60] comprising a compressor 76, a

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condenser 90, and an evaporator 78 mounted (either directly or indirectly) on a base within drawer 68 [see Figures 2 through 4]; evaporator 78 mounted inside a housing as shown in Figure 4, the evaporator housing as mounted thus being at least somewhat inherently thermally insulating with respect to both the condenser 90 and with respect to the base because of the inherently insulative air surrounding both the evaporator within its housing and the air disposed between the evaporator housing and the base as shown in Figures 3 and 4. A second access opening through which access to the interior of refrigeration module chamber is provided through a peripheral/side/front wall of the appliance 20 corresponds to the opening in which drawer 68 is disposed, this opening receiving, and thus being sized to receive the refrigeration module or unit 70 via sliding insertion of the drawer 68. The materials of the base of the drawer 68 and of the refrigeration unit 70, as well as of the "mounts" connecting condenser 90 via compressor 76 to the base are inherently at least somewhat thermally conductive, thus meeting the limitations of claims 16 and 17 of the instant application.

The reference thus reads on the claims.

(10) Response to Argument

In response to appellant's argument that Clark et al. fails to show a refrigeration module per se, the examiner notes that a module is basically a unit (as stated even by appellant on page 5 of the Appeal Brief), and that Clark et al. clearly refers to and discloses a refrigeration unit or module 70 [see column 3, lines 58-60, and Figures 3 and 4 for example]. Therefore, if the pending claims are interpreted broadly as required, Clark et al. definitely shows a refrigeration module or unit 70, where the module or unit 70 comprises a compressor 76, a condenser 90, an evaporator 78, and a base (see Figure 3) on which all of these elements are directly or indirectly mounted to form a unit. Note that claim 1 as written does NOT require that the compressor, the condenser, and the evaporator all be directly mounted to a single base, nor does it require that all of these elements which form the refrigeration module be mounted or be enclosed within a single housing of any sort.

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In response to appellant's argument that the Clark et al. reference fails to show certain features of appellant's invention, it is noted that at least one of the features upon which appellant relies (i.e., that claim 1 of the instant application requires that *the refrigeration system* must be a module and/or that claim 1 requires that the compressor, condenser, and evaporator "are mounted *on a movable base to form an integrated unit which can be easily inserted into and removed from the refrigeration unit chamber to simplify the installation and maintenance of the refrigeration unit*" and/or that claim requires that "the compressor, the evaporator, and the condenser are all mounted on a base *to form a removable module that fits entirely within the refrigeration module chamber*") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As written, claim 1 does not require that the refrigeration system as a whole constitute a stand-alone module. Claim 1 as written also does not require that the base be movable so that the refrigeration unit is easily insertable and removable into and out of the refrigeration unit chamber. Finally, claim 1 as written also does not require that the compressor, evaporator, and condenser are either all directly mounted to the same base nor does it require that these elements all fit entirely within the refrigeration module chamber nor does it require that all of these elements are all enclosed by a single module housing of any sort.

Appellant also argues that Clark et al. does not show a condenser, evaporator, and compressor mounted to the same base. The examiner traverses this argument by noting that claims in a pending application must be interpreted broadly, and given at least the broad interpretation of the claims which only require that the condenser, evaporator, and compressor are all at least indirectly connected or mounted to the same base, Clark et al. definitely shows that the condenser 90 and the evaporator 78 are connected to and mounted to the compressor 76 (and thus also to its base) via interconnecting pipes as shown in Figure 3 of Clark et al., for example.

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Finally, appellant argues that Clark et al. fails to show the evaporator as having an insulated housing which thermally isolates it from the condenser. Again, as broadly interpreted, the corresponding limitations in claim 1 merely require that the evaporator be contained within a housing which is thermally insulated in a general and non-specific manner so as to thermally isolate the evaporator from the condenser. The claims (and the corresponding description in the specification) of the instant application fail to recite any particular structure of the housing which would provide insulation thereto. Thus, a housing may be deemed as being an insulated housing (and thus meet the requirements of the claims) if it (a) is surrounded on the inside or outside by an ambient inherently insulative material, such as air; OR (b) is made of any material which is not a perfect conductor; OR, (c) specifically contains thermal insulation. In the instant case, Clark et al. discloses a housing for evaporator 78 which meets conditions (a) and (b) above, and furthermore also shows the evaporator 78 and its housing as being housed in yet another housing (i.e., drawer 68) as pointed out by appellant's arguments which thermally isolates the evaporator 78 from condenser 90.

Thus, claims 1 through 4 and 16 through 18 are all properly readable on the Clark et al. reference, and the rejection of these claims is hereby sustained by the examiner.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

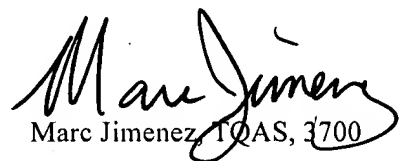
Respectfully submitted,

Ljiljana (Lil) V. Ciric/Primary Examiner/AU 3744



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